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OVERSIGHT HEARING
SUBCOMMITTEE ON NATIONAL PARKS, RECREATION, AND PUBLIC LANDS
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
MARCH 17, 2004

Mr. Chairman, thank you for the opportunity to discuss the Department of the Interior's efforts to reform the real estate appraisal process and address other land transaction issues. We welcome the opportunity to discuss these efforts with the Committee.

Over the past two years, we have made significant progress in addressing long standing issues associated with real estate transactions. In particular, I want to focus on the work that led to the creation of the Office of Appraisal Services last fall, report to you on the substantial progress made by this new office, and discuss our efforts to assess other land transaction policy concerns.

Land Transaction Working Group

First, I want to provide some background regarding the Department's commitment to assure that its land transactions serve the public interest. Interior carries out transactions that include acquisitions, exchanges, and sales, both for lands and interests and components of lands such as water, minerals and timber. Assuring the integrity and credibility of these processes is a fundamental concern and must be at the foundation of opportunities to achieve conservation goals and provide other public benefits.

Accordingly, in the fall of 2002, the Department created an interdepartmental body, the Land Transaction Working Group (LTWG), comprising assistant secretaries and bureau directors with land management responsibilities. The

LTWG is responsible for addressing land transaction issues at a policy level and recommending specific actions to remedy problems.

The LTWG tackled a number of issues during its first six months of operation. First, it promulgated a set of broad land transaction principles underscoring the need for integrity, good faith, transparency and other basic considerations necessary to assure public confidence. These principles were approved by the Secretary and are being applied by bureaus to pertinent activities. Second, the Group developed an interagency Memorandum of Understanding (MOU) to improve implementation of the Federal Land Transaction Facilitation Act (Public Law 106-248) concerning land sales, which this Committee helped to enact in 2000.

Appraisal Reform: Background to Secretarial Decision

Early in its tenure, the LTWG identified a need to focus on the real estate appraisal process. The August 2002 release of a report on the appraisal organization of the Bureau of Land Management (BLM) was a stimulus in that regard, though other factors reinforced the need to focus on the appraisal process. The BLM report was prepared by the Appraisal Foundation, a nationally recognized organization chartered by the Congress to oversee the implementation of appraisal standards and assure the professionalism of appraisers. The Foundation's report was especially disturbing. It examined both specific transactions and overall management of appraisal functions, and noted problems such as:

- failure to assure objective and independent market value opinions;
- improper use of alternative means to measure market value that were inconsistent with recognized appraisal standards;
- inconsistent delegation of authority processes; and
- pressure to change or ignore market value appraisals in order to complete transactions.

The Foundation's report ultimately concluded that "the appraisal function's independence is subservient to management and realty staffs' drive to successfully close transactions, including land exchanges." This finding was underscored by a recommendation to establish a separate agency for the management of all Federal government appraisals, or at a minimum, the Department of the Interior's creation of a "centralized appraisal and appraisal review organization for the Department."

The LTWG subsequently began an assessment of how appraisal functions were managed in the Interior land management bureaus, which in addition to the BLM include the National Park Service (NPS), the Fish and Wildlife Service (FWS), and the Bureau of Reclamation (BOR). The LTWG found that: (a) concerns about the appraisal function were not new, but stretched back over several decades; (b) although most of the recent attention had focused on the BLM, the underlying issues – lack of appraiser independence and inconsistent application of appraisal standards – were present in all bureaus carrying out appraisal functions; and (c) past efforts to remedy appraisal problems, which typically included refining or augmenting program guidance, had proved ineffective because they did not address the underlying issues noted above.

The LTWG found that concern about the appraisal function dated to as early as 1956, when an audit performed by the precursor to the Department's Inspector General proposed 27 detailed recommendations. In 1968, another Departmental audit noted that minimal progress had been attained since that first audit. It highlighted the concern regarding appraiser independence echoed again decades later by the Appraisal Foundation, namely that "the organizational placement of the appraisal function in most bureaus tends to restrict independence and to deemphasize the significance of the appraisal as an end product." The 1968 audit concluded by recommending the "creation of a single

Departmental appraisal organization,” a conclusion identical to that reached by the Appraisal Foundation 34 years later.

The LTWG concluded, as I noted, that problems were present in each of the bureaus. This conclusion, incidentally, was also reached by an interagency team sponsored by the BLM that examined appraisal and land exchange issues at the same time as the LTWG’s review. In particular, the LTWG focused on the lack of independence resulting when appraisers report to those who are essentially their clients, i.e., managers responsible for overall realty functions. This problem is not unique to government. Both the Appraisal Foundation and the Appraisal Institute have highlighted client pressure as perhaps the most visible threat to appraisal integrity, and many financial institutions have restructured appraisal functions to reduce this vulnerability.

Similarly, the LTWG concluded that significant restructuring was necessary and recommended the consolidation of appraisal functions performed by bureaus in a new Departmental office. Secretary Norton approved this recommendation and announced the Department’s intent on June 19, 2003. She cited the need for “fundamental reform,” stating that “our new organization will change the way we do business and will gain the respect of both the public and the dedicated professionals in our appraisal and realty programs.” We were pleased that this announcement was greeted with approval, especially by professional appraisal organizations and others with interest in our land transaction programs. I want to note that prior to the announcement we carried out an extensive outreach effort with employees to explain what we were doing and to assure them that their concerns would be taken into account. This included the establishment of a web site to provide information and answer questions raised by employees.

Creation of the Office of Appraisal Services

The Secretary's decision set forth the basic direction for reform. At that point, we knew the best way to proceed was to consult those who understood the appraisal function, realty programs, and other pertinent concerns. In July 2003, we appointed the Appraisal Reform Team of career professionals, including appraisers from the field and Headquarters, realty managers and others with expertise in budget, human resources and policy analysis. This interdisciplinary team was charged with providing advice and recommendations on structuring the new organization to assure its success and in so doing to focus on the concerns of its prospective employees and those of land transaction program managers.

We assured the Team that we would take its recommendations seriously – and we did. The Team worked through the Summer of 2003 and presented a detailed series of recommendations covering office organization in the field and Headquarters, Department-wide appraisal policies and delegation of authority, appraiser qualifications, and the need to assure conformance with recognized appraisal standards. Its specific recommendations were the basis of our proposal to consolidate appraisal functions.

The Department's proposal outlined the structure of the new Office of Appraisal Services (OAS), its placement within the Department's National Business Center, which is well suited to provide support functions including budget, human resources, and fiscal services, and its operation through the Department's Working Capital Fund. Appraisers working in bureaus would be transferred to the new office. The OAS is headed by a Departmental chief appraiser – a new position – to whom all appraisers in the field report through a regionally based structure, including seven regions, each headed by a regional supervisory appraiser. This change in reporting structure -- appraisers reporting to appraisers rather than to those responsible for making transactions, would be the most immediate and visible change, while overall appraisal functions would

remain field-based. Our proposal is consistent with the long standing Departmental audit recommendations noted earlier, the appraisal restructuring efforts conducted by many major financial organizations, and the Appraisal Foundation's 2002 report.

Integrity and professionalism were the basis for our proposal and the intended guideposts for the OAS. As previously stated, a key goal has been to provide appraisers with sufficient independence to assure that appraisals are unbiased and meet recognized professional standards. At the same time, however, our proposal met other important objectives to:

- enhance or restore public confidence in the Department's appraisal functions and land transaction processes in general;
- respond to bureau realty priorities;
- promote good government;
- avoid disruption to employees; and
- assure the efficient use of taxpayer dollars.

The Congress approved the creation of the OAS in the Conference Report for the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 2004 (Public Law 108-108). On November 13, 2003, the Department announced the creation of the new office pursuant to Secretarial Order #3251. At that time, consistent with our ongoing actions to provide employees with up-to-date information, we held a broadcast to provide details on the new organization and answer questions from the field.

Activities of the Office of Appraisal Services

Although the OAS has operated for less than four months, I am pleased to report that the transition to new management of the appraisal function has been smooth

and the Department's considerable and varied appraisal workload is effectively managed. Brian Holly, the Chief Appraiser for the Department of Justice, serves as the Department's Acting Chief Appraiser and heads the OAS. He has designated acting regional supervisory appraisers for the OAS's seven regions. The new structure provides clear lines of authority and assures appraiser independence. Further, in less than four months, the OAS has achieved tangible results, which include the:

- completion of over 150 appraisals;
- completion of over 450 appraisal reviews;
- continuous management of 130 contracts;
- completion of over 160 consultation assignments; and
- oversight of 34 appraisals prepared for third parties.

The OAS has also implemented a web-based appraisal request and tracking system, by which bureaus request services and inform the OAS as to specific items that require priority attention. The system enables the OAS to manage its considerable workload. At the same time, the office is helping Bureaus to realize other benefits of appraisal consolidation. For example, appraisal reports prepared for the National Park Service's national trails program were previously backlogged due to the limited availability of appraisal staff for that program. The OAS was able to assign some of this workload to other appraisers, enabling its completion. A major project for the Bureau of Reclamation in Utah, the Big Sand Wash acquisition, was accomplished by using appraisers formerly with the BLM and former NPS appraisers with specific expertise in concessions. Other appraisers with expertise in specific areas, such as minerals or forestry, have been made available to work on projects for several bureaus. In several regions, appraisers have been able to complete appraisals for several bureaus in a single trip to the field. Under the former bureau-centered management structure, such economies of scale could not be realized. Finally, the OAS has provided valuable counsel to senior managers on complex appraisal issues.

The OAS is also reviewing Departmental and bureau appraisal policies to assure consistency with recognized standards. In addition, it is reviewing the qualification standards for appraisers to assure that professional requirements for certification and training are met. These actions are essential to help meet the Department's goals for integrity and professionalism in the appraisal function. As expected in any major functional restructuring, the OAS staff is experiencing major challenges to integrate a workforce with varied backgrounds and experiences, establish management practices to address workflow and resources, and develop new relationships with bureau and departmental managers. As I have noted, however, the OAS is meeting – indeed exceeding – the Department's high expectations.

Land Transaction Policy Reviews

I want to touch briefly on other land transaction policy reviews that are now under way in the Department through the LTWG, of which some, but not all relate to appraisals. As I have noted, the Department carries out a broad portfolio of programs to acquire lands, conduct land exchanges, and in certain cases offer land for sale. These efforts help meet conservation objectives, improve our ability to manage Federal lands, and to provide states, communities and the private sector with the opportunity acquire lands that are more suited for management by non-Federal entities. The credibility of these transactions largely depends upon fair and objective appraisals. In addition, however, we must assure that other aspects of transactions, including negotiations and, where necessary to develop legislation, consultations with the Congress and States or other non-Federal parties are conducted under appropriate procedures.

One issue the LTWG is examining concerns a practice that has occurred for many years, namely the use by bureaus of appraisals prepared on behalf of third parties such as land trusts, real estate investment firms, or other private entities.

Our work with these various partners can yield significant benefits to the public, and appraisal services engaged by these parties can help to facilitate transactions and save taxpayer dollars. It is essential, however, to assure that such appraisals meet recognized standards and undergo appropriate reviews, and to clarify the respective understandings of all parties regarding the use of such appraisals. Accordingly, the LTWG is considering guidance regarding the use of third party appraisals.

Another issue under review concerns the use of methods other than market value determinations. In recent years, concepts such as public interest value and contingent valuation have been advanced as means by which to address attributes such as scenic vistas and wildlife habitats in lieu of market value appraisals performed under recognized professional standards. In some cases, specific direction has been received by Congress to employ such methods or otherwise depart from appraisal practices. The LTWG is considering guidance to, among other things, assure that these alternative approaches, where authorized by Congress, are clearly distinguished from standard appraisal practices, undergo appropriate professional scrutiny, and are clearly described in any transaction documents.

A third issue under LTWG review concerns the process by which the Department engages in land exchanges that require Congressional ratification. The Secretary issued specific direction to the LTWG to develop recommendations pertaining to the conduct of legislative exchanges. In this case, as in the two other policy areas noted above, we hope the LTWG will complete its work later this spring.

Conclusion

In conclusion, we have achieved a major reform of the real estate appraisal process which will have lasting benefit to the taxpayers. The Department's

reform effort has no partisan basis; rather, it reflects basic “good government” principles of integrity, professionalism and openness upon which we can all agree. Further, we are continuing our efforts to improve land transaction processes and earn the public’s respect and confidence.

Mr. Chairman, in conclusion, I will be pleased to answer any questions from you and members of the subcommittee.